

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SYLVIA GEAR, MALEKEH K. HAKAMI,)
PATRICIA GINTER, CLAIRE WHELAN,)
WISCONSIN ALLIANCE FOR RETIRED)
AMERICANS, LEAGUE OF WOMEN)
VOTERS OF WISCONSIN,)
)
Plaintiffs,)
) No. 3:20-cv-00278
v.)
)
DEAN KNUDSON, JULIE M. GLANCEY,)
ROBERT F. SPINDELL, JR., MARK L.)
THOMSEN, ANN S. JACOBS, MARGE)
BOSTELMANN, in their official capacity)
as members of the Wisconsin Election)
Commission, MEAGAN WOLFE, in her)
official capacity as the Administrator of the)
Wisconsin Elections Commission,)
)
Defendants.)
)

**PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Plaintiffs Sylvia Gear, Dr. Malekeh K. Hakami, Patricia Ginter, Claire Whelan, Wisconsin Alliance for Retired Americans (“Wisconsin Alliance”), and League of Women Voters of Wisconsin (“LWVWI”) (collectively, “Plaintiffs”), by and through their attorneys, respectfully move this Court pursuant to Rule 65 of the Federal Rules of Civil Procedure for a temporary restraining order and a preliminary injunction, enjoining Defendants and their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from enforcing Wis. Stat. § 6.87(4)(b)1. and from rejecting and refusing to count mail-in absentee ballots for lack of a witness signature on the absentee ballot certification envelope.

Plaintiffs are entitled to a temporary restraining order and a preliminary injunction because they are substantially likely to succeed on the merits of their *Anderson-Burdick* claim (Count One). Under the circumstances of this unprecedented global pandemic, which is spreading throughout the United States including Wisconsin, the witnessing requirement for mail-in absentee voters, Wis. Stat. § 6.87(4)(b)1., constitutes an undue burden on the right to vote in violation of the First and Fourteenth Amendments to the U.S. Constitution. Absent a temporary restraining order and preliminary injunction barring enforcement of Wis. Stat. § 6.87(4)(b)1., countless eligible Wisconsin voters, including Plaintiffs Sylvia Gear, Dr. Malekeh K. Hakami, Patricia Ginter, Claire Whelan, as well as members of Plaintiffs Wisconsin Alliance and LWVWI, will be irreparably disenfranchised in the upcoming April 7, 2020 election and in future elections conducted while the pandemic persists. Plaintiffs will manifestly suffer irreparable harm absent relief, and there is of course no adequate remedy at law to protect their constitutional rights—once the election is over and certified, there is no way to give Plaintiffs Sylvia Gear, Dr. Malekeh K. Hakami, Patricia Ginter, and Claire Whelan, as well as members of Plaintiffs Wisconsin Alliance and LWVWI, another opportunity to cast their vote in that election.

Furthermore, the harm to Plaintiffs and eligible Wisconsin voters outweighs any purported harm to Defendants. The witnessing requirement does not actually function as an effective anti-fraud tool, and enjoining it for the duration of this public health emergency will not cause Defendants to suffer an increase in their administrative burdens or costs. If anything, their administrative burdens and costs will be reduced. A temporary restraining order and preliminary injunction will serve the public interests in minimizing voter disenfranchisement, maximizing voter participation, and restricting the spread of COVID-19. Plaintiffs seek an immediate temporary restraining order to prevent these irreparable injuries to eligible Wisconsin voters'

rights. Every day that goes by without such an order in place is a day in which eligible Wisconsin voters with a mail-in absentee ballot in hand must struggle to choose between their safety and their right to vote.

For the foregoing reasons, and as set forth in the accompanying Brief in Support of Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, Plaintiffs respectfully request that this Court grant a Temporary Restraining Order and a preliminary injunction enjoining Defendants and their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from enforcing Wis. Stat. § 6.87(4)(b)1. and from rejecting and refusing to count mail-in absentee ballots for lack of a witness signature on the absentee ballot certification envelope.

DATE: March 28, 2020

Respectfully submitted,

/s/ Jon Sherman

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**Admitted to the U.S. District Court for the
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